

Green Packaging Workshop Comment
Project No. P084200

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I
INTRODUCTION

The Center for Resource Solutions (“CRS”) submits the following comments to inform the discussion at the Federal Trade Commission’s Green Packaging Workshop (the “Packaging Workshop”).

CRS participated in FTC’s January 8, 2008, Workshop on Carbon Offsets and Renewable Energy Certificates (the “Carbon Workshop”), and submitted comments on this workshop and on the proposed revisions to the Guides for the Use of Environmental Marketing Claims (the “Green Guides”) generally.

CRS administers the Green-e[®] Energy and Green-e Climate certification programs, through which we verify and certify sales of renewable energy and greenhouse gas emissions reductions (also commonly known as “carbon offsets,” or “offsets”) in voluntary markets.¹ In addition, through our Green-e Marketplace program we verify company claims about renewable energy use, and license the Green-e logo to companies purchasing or generating sufficient quantities of renewable energy for use in advertising materials and company collateral. Particularly relevant for this workshop, Green-e Marketplace also licenses the Green-e logo for use on the packaging of products manufactured with renewable energy.²

We thank the FTC for continuing to refine its Green Guides, and for specifically addressing environmental claims on product packaging.

¹ CRS launched the Green-e[®] Climate certification program in February 2008.

² The Green-e[®] Energy, the Green-e[®] Climate, and Green-e[®] Marketplace programs are described in detail by CRS in its comments submitted on the Workshop. CRS Deputy Director and Director of Certification and Analysis Jennifer Martin also spoke about these programs at the Workshop.

II COMMENTS TO INFORM THE DISCUSSION AT THE FTC'S GREEN PACKAGING WORKSHOP

A. Trends in packaging and the resulting environmental packaging claims

As illustrated in the FTC's Carbon Workshop, companies are increasingly seeking to mitigate their carbon impact through various measures, including implementing energy efficiency measures, using renewable energy, and purchasing carbon offsets. Companies undertaking such efforts generally wish to communicate their actions to consumers. One trend CRS has observed is companies making claims on product packing, through statements about environmental practices or the use of environmental seals and logos, about the carbon impact of their products, or about renewable energy used to make, manufacture, distribute or deliver their products. In some cases, such claims appear on the products themselves.

It is essential for companies to clarify the scope of environmental claims on product packaging. A unique problem that has arisen with surprising frequency is where a company manufacturing packaging materials places claims on its products, which are subsequently used as packaging by another company. For example, a paper manufacturing company prints a claim about renewable energy use on its paper, and another company subsequently uses that paper in packaging or advertising a separate product.³ Ambiguity is particularly likely when the claim on a products package is in the form of an environmental logo or seal, without explanation. In some cases the scope of such claims may be clear from context to consumers—*e.g.* a logo associated with recycling on a bottle of beverage sold individually. For other types of claims, however, the meaning is unclear. For example:

- *A bottle of wine displays on its label a seal recognized to stand for the certification of renewable energy, without explanation. The paper on which the label is printed was milled in a facility using renewable energy; however, both the wine and the bottle were manufactured using non-renewable energy.*

Display of the certification seal on the label of the wine bottle may mislead consumers, who may interpret the seal as a claim that the product itself was manufactured with renewable energy.

- *A logo associated with the use of renewable energy is printed without explanation on the envelopes of UP-EX, a well-known shipping company, along with the mark of UP-EX. The company that manufactured the envelopes uses renewable energy; however, UP-EX does not.*

³ Conceptually, this problem could arise outside the climate context, although CRS is not aware of examples where this has occurred.

Similarly, consumers may interpret the logo on the UP-EX envelopes as a claim by UP-EX that it used renewable energy, which it has not.

CRS believes the potential for confusion caused by the printing of environmental statements on a medium used for product packaging is an appropriate topic for discussion at the Packaging Workshop.

B. Perception of packaging terms covered by the Green Guides

Specific packaging terms currently covered by the Green Guides (including terms such as compostable, degradable, recyclable, refillable, and ozone friendly) primarily relate to physical attributes of packaging materials. CRS has no reason to believe consumer perception of such terms has changed significantly since the guides were implemented.

In addition to the direct impact of product packaging, consumers are increasingly aware of the environmental impact of bringing products to market, including the manufacture, distribution, and packaging of products. In particular, over the last decade there has been enormous attention and increase in public awareness regarding the potentially devastating impacts of global warming caused by emission of carbon and other greenhouse gases.

We believe that the average consumer's concept of "environmentally preferable" has expanded significantly to include the avoidance of greenhouse gas emissions in the manufacturing, distribution and packaging of products. Specifically, consumers may interpret general assertions of environmental benefit on product packaging to imply that efforts were taken to mitigate the climate impact of manufacturing, distributing, and packaging that product. We believe this shift in consumer production and its implications should be addressed at the Packaging Workshop.

C. Perception of packaging terms not covered by the Green Guides

A number of terms not covered by the Green Guides frequently appear on product packaging. As discussed above, companies are making claims on product packaging about the carbon impact of products and packaging. Climate related terms on product packaging include claims about the "carbon footprint/impact" of the product or packaging, claims that the product or packaging is "carbon neutral" or "climate neutral," and we are aware of at least one company that has claimed its product is "carbon negative."

Similarly, companies sometimes claim that a particular product or packaging was "made/manufactured with renewable energy," or a particular renewable resource such as wind or solar energy.⁴ For certain types of products, a company may claim that the

⁴ CRS discussed consumers' understanding of what constitutes a renewable resource in Section II.B.2.a. of its comments on the Carbon Workshop submitted January 25, 2008. See <http://www.ftc.gov/os/comments/carbonworkshop/533254-00049.htm>.

product is “powered by” a particular environmentally preferable fuel, such as biodiesel or hydrogen. General statements about the company manufacturing or distributing a particular product sometimes appear on product packaging as well, including claims relating to carbon impact and the use of renewable energy. Increasingly, companies also make claims that buying a particular company’s product in lieu of a competitor’s is “equivalent to” a certain result, such as taking a certain number of cars off the road, or planting a certain number of trees.

Companies are also employing terms not expressly covered by the Green Guides, such as “sustainable,” “green,” on product packaging to convey the impression they or the products they sell are environmentally beneficial.

We believe consumers’ understanding of terms such as those mentioned above is an appropriate topic for discussion the Packaging Workshop. In particular, we would recommend discussing (1) whether consumers understand claims about “carbon” to implicitly include other greenhouse gasses, (2) what aspects of manufacturing and distribution consumers consider relevant in determining the greenhouse gas impact of a particular product or company, (3) how companies must substantiate non-specific climate related claims to ensure they are not misleading to consumers, (4) when and how equivalency claims can be substantiated to avoid misleading consumers, and (5) how consumers interpret general environmental claims such as “sustainable” and “green,” and whether such terms say anything about the greenhouse gas impact of companies or products.

D. Claims based on third-party certification and consumer perception of such claims

CRS discussed the role of third-party certification in its comments on the Carbon Workshop submitted January 25, 2008, and also in its comments on the Green Guides submitted February 11, 2008.

Generally, CRS believes third-party certification can provide a means for companies to substantiate their claims about company practices, including claims placed on or pertaining to product packing, so long as two conditions are met. First, in order to serve as a mechanism for substantiation, the certifying entity must maintain transparent standards, so that consumers can easily understand what that specific type of certification means. Second, CRS believes that consumers assume certification has been conducted by an independent third-party. On occasion, CRS has seen companies “self certify” the environmental benefits of their own actions by creating their own logos which are used on products and other materials to signify environmental benefit and action by the company. There are many third-party certification programs who allow the use of their own logos on products to signify an environmental benefit they have independently verified. Therefore, this type of “self-certification” can be misleading to consumers

unless the company expressly discloses that certification has not been conducted by an independent third-party.

CRS believes the Green-e Marketplace program is an example of an independent third-party certification program that provides a means for companies to substantiate certain renewable energy claims appearing on or pertaining to product packaging.

E. The current state of substantiation for green packaging claims and need for FTC guidance

CRS perceives that currently some companies making claims about the climate impact of their products may not adequately substantiate their claims. For example, it is sometimes unclear what factors companies making claims about the “carbon footprint” associated with particular products have considered in calculating the total greenhouse gases emitted in bringing those products to market, or precisely what actions such companies have taken to mitigate the climate impact of their operations. CRS encourages the FTC to make climate related claims on product packaging a topic for discussion at the Packaging Workshop.

III. CONCLUSION

In closing, CRS would like to thank the FTC for this opportunity to provide comments in these areas. CRS relies on guidance from the FTC in developing and administering our own certification programs, and is supportive of the FTC’s consideration of consumer protection issues arising from environmental claims associated with product packaging.